

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

BILLY JOE WARD,)	
)	
Plaintiff,)	
)	
v.)	Civil No. 3:05-0777
)	Judge Trauger
WAL-MART STORES, INC.,)	
)	
Defendant.)	

MEMORANDUM and ORDER

On February 14, 2007, the Magistrate Judge issued a Report and Recommendation, recommending that the defendant's Motion for Summary Judgment (Docket No. 56) be granted. The plaintiff has filed Objections. (Docket No. 67) This court must make a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made and may accept, reject or modify the Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); Rule 72(b).

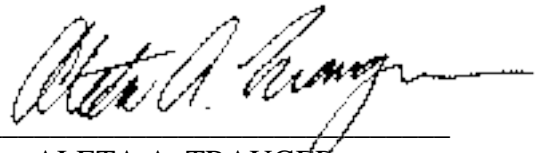
The plaintiff did not respond to the defendant's Motion for Summary Judgment or to the defendant's Statement of Undisputed Material Facts. Nevertheless, the Magistrate Judge, as he must under *Stough v. Mayville Community Schools*, 138 F.3d 612, 614 (6th Cir. 1998), conducted an exhaustive examination of the record in this case in order to determine whether the defendant had established its right to have summary judgment granted. In part, the Magistrate Judge found that the plaintiff had failed to produce any admissible evidence in support of his allegations and, therefore, had failed to create a material issue of fact warranting a denial of summary judgment. His objections merely contain assertions that he has some witnesses who will support his claim,

but no affidavits, depositions or any other form of admissible evidence is tendered by the plaintiff, as is required at this stage of the case. He asserts that a witness statement is “enclosed and signed as well,” but the court finds no such statement in the plaintiff’s submittal (Docket No. 67).

In sum, the plaintiff is simply relying upon the kinds of allegations made in his pleadings, and that does not suffice to defeat a properly supported motion for summary judgment. For the reasons expressed herein, the plaintiff’s Objections are **OVERRULED** and the Report and Recommendation (Docket No. 65) is **ACCEPTED** and made the findings of fact and conclusions of law of this court. For the reasons expressed therein, the Motion for Summary Judgment filed by the defendant (Docket No. 56) is **GRANTED**. This case is **DISMISSED**, and the trial scheduled for March 20, 2007 and the pretrial conference scheduled for March 12, 2007 are **CANCELLED**.

It is so **ORDERED**.

Enter this 6th day of March 2007.

A handwritten signature in black ink, appearing to read 'Aleta A. Trauger', is written over a horizontal line.

ALETA A. TRAUGER
U.S. District Judge